UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

ERIC L. JEFFRIES,

Plaintiff,

v. No. C-1-02-351

CENTRE LIFE INSURANCE COMPANY, ET AL.,

Defendants.

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DEPOSITION OF CHARLES POSER, M.D., a witness called on behalf of the Defendant, taken pursuant to the provisions of the Massachusetts Rules of Civil Procedure, before Linda Bernis, a Registered Professional Reporter and Notary Public in and for the Commonwealth of Massachusetts, held at the Beth Israel Hospital, 330 Brookline Avenue, Boston, Massachusetts, on Tuesday, July 8, 2003, commencing at 2:00 p.m.

computed tomography?
A. Something like that.
Q. Basically, what happens is, they inject an isotone into the patient and some time later they have the patient lie down and they scan him with something that picks up a single-photon emission computed tomography coming from the blood flow in the brain; is that right?
A. Right.
Q. And he finds that, or he concluded that the brain scan, or the spec scan, rather, the type of spec scan that he reviewed has been described in relation to different conditions including chronic fatigue; is that right?
A. Yes.
Q. Now, there is no medical literature which suggests that chronic fatigue is, sorry, that spec scans are diagnostic of chronic fatigue; is that right?
A. I really don't know. I don't know. This is something that I have not pursued. This is quite beyond my expertise. I've never used

As I mentioned before, Mr. Jeffries had mentioned that the symptoms were intermittent. I never did discover what the shortest or longest period of time was, and I don't remember if he testified to that or not. I just don't know. But he did mention the fact that they were intermittent.

He quit working, as I remember, in September of '98. So it was about a year after the vaccination, at which time apparently the symptoms became severe enough. That's as far as I know.

Q. In the medical community, do the debates continue as to the viability of chronic fatigue syndrome, fibromyalgia, whatever you call it, as a viable illness as opposed to complaints?

A. Oh, yes.

Q. Of other illnesses?

A. It's been recognized by the CDC. It's been recognized by the VA. I don't know what other.

Q. But it's like a disease of exclusion as far as diagnosis is concerned?

A. I don't think so.
Q. You don't think so?
A. No. People always get my goat when they say MS is disease of exclusion. Not to me it isn't. I think that you can make the diagnosis on the basis of very specific criteria which we have.

I once made myself very popular when I gave a talk on chronic fatigue syndrome to a bunch of psychiatrists and I didn't realize there were patients in the audience. I made the statement that, in my opinion, 90 percent of patients with chronic fatigue syndrome are crocks. That was not a very popular statement. It happened to be something that I believed, which, of course, makes life very difficult for people like Mr. Jeffries. It's not a disease of exclusion. Now, people think it is and they go through all kinds of things to rule it out.

As you mentioned before, Shea disease, Munchhausen syndrome, that's nonsense; absolute nonsense. It costs a lot

of money to do that. It's not necessary.
What people don't know how to do, Mr. Ellis, is take a history. We don't teach that anymore. MRI is much easier.

Q. Well, the fact remains that the symptoms that fit your criteria are, in fact, in order to fit your criteria are subjective symptoms, the ones the patient has to describe to you?

A. That is the definition of a symptom. You mean, they have no signs?

Q. They have no signs.

A. That's correct.

Q. So, basically, we have a complaint without an objective physiological finding to support it?

A. Right.

Q. And that's true of each of the major and minor symptoms that you described?

A. You're absolutely correct.

Q. I thought that we had an objective sign on one of your minors when we talked about tandem walking, but you said objectively they can do it but subjectively they feel

difficulties or some personality difficulties into physical symptoms, correct?

A. Yes.

Q. And that --

A. However --

Q. -- that is an identifiable disease by objective testing; is it not by neuropsychological testing?

A. This is a much better way of doing it. The patient says they can't walk and you think it's a somatization. You hypnotise them and then you can show that under hypnosis you can do a normal examination.

I have a friend when I was a resident that could do that. However, you have to remember that when there is somatization, as a general rule, it's very dramatic. This ain't dramatic. Here's a guy who can't work. He's tired all the time. He can't remember anything. He can't add two and two. There's nothing dramatic about that. The somatization is, I can't walk.

their problem.
Q. And that criteria is the one that would permit, as you put it, 90 percent of people complaining of CFS who don't actually have it to be diagnosed with it?
A. Yes, but that is my personal opinion.
Q. I understand that.
And the criteria that you identify are your criteria for making the diagnosis?
A. I used --
Q. Not necessarily accepted by the medical profession?
A. I have no idea. Nor do I care.
Q. Right. I'm with you.
In your experience, do you believe that patients such as Mr. Jeffries with chronic fatigue diagnosed by your criteria will deteriorate over time or do they reach a plateau and just stay that way forever?
A. Some patients recover. It's not very common. Most patients reach a plateau.
I can also tell you, again, in my experience, the disease is more common in women, which is another reason why it's